

REMARKS

This Response is submitted in reply to the Office Action dated May 19, 2006. Claims 1 to 60 are pending. Claims 1, 11, 21 to 23, 27, 31, 33, 35, 44 to 47, 51, 52, and 57 to 60 have been amended. No new subject matter has been added by these amendments.

A Petition for a two-month extension of time is submitted herewith. The Commissioner is hereby authorized to charge deposit account 02-1818 for any fees which are due.

Claims 1 to 10, 21, 23 to 26, 31, 36, 39, 42 and 43 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,931,467 to Kamille ("*Kamille*"). For at least the reasons discussed below, Applicants respectfully traverse the rejection and submit that the rejection has been overcome.

Applicants have amended Claim 1 to clarify that the gaming device includes a processor operable with the display device to select one of a plurality of different probabilities of providing a winning outcome of a second round. The probability of providing the winning outcome of the second round is selected based exclusively on the number of non-selected outcomes of the first round. Similarly, Claim 21 has been amended to clarify that the probability of providing a positive outcome of a second round is selected based exclusively on the number of non-selected positive outcomes of a first round. Support for these amendments can be found in the Specification at, for example, page 36, lines 16-19.

Kamille does not disclose a probability of providing a winning outcome of a second round that is selected based exclusively on the number of non-selected outcomes of the first round. Instead, *Kamille* discloses a game piece that has a number of starting arrows around the periphery of a matrix of masked play areas. Each starting arrow indicates a different play area. The play areas include directionals (single arrows) and choice directionals (double arrows) which direct the player to the next play area to uncover. Play areas also include void symbols, teaser prizes with a directional, and a larger prize. *Kamille*, column 10, lines 41-59.

In *Kamille*, play begins by enabling a player to pick a single starting arrow and to uncover the play area indicated by the starting arrow. The player may then uncover another play area if a directional in the previously uncovered play area directs the player to that play area. The player continues to uncover play areas indicated by directionals until the player uncovers a void or the large prize.

According to the Office Action, the indication of a directional of a play area by the selection of a starting arrow in *Kamille* corresponds to an outcome of a first round. The Office Action also interprets a second round to be choosing other play areas based on directionals to get to a win. The Office Action further interprets the probability of a player choosing the correct path to a win as equivalent to a probability of providing a winning outcome of the second round. According to the Office Action, the probability of choosing the correct path to a win--providing a winning outcome of the second round, is based on the directional indicated by the starting arrow--the selected outcome of the first round. See Office Action, pages 2 and 3.

In *Kamille*, the overall probability of providing a winning outcome in the second round is based on the number of selected and non-selected outcomes in the first round. That is, *Kamille* does not disclose a probability of providing a winning outcome of a second round that is selected based exclusively on the number of non-selected outcomes of the first round as in Claim 1. Even if *Kamille* can be interpreted according to the Office Action, in contrast to the gaming device of amended independent Claim 1, the probability of choosing the correct path to a win in *Kamille* is not based on the number of directionals indicated by the starting arrows not selected by the player. As illustrated in Fig. 7C, in *Kamille*, the probability of choosing the correct path to the large prize (\$5 WIN) is based on the starting arrow selected by the player and the directionals associated with the play areas connected to each play area indicated by a starting arrow. Therefore, *Kamille* does not disclose a probability of providing a winning outcome of a second round that is selected based exclusively on the number of non-selected outcomes of the first round as in Claim 1.

For at least these reasons, *Kamille* also does not disclose a probability of providing a positive outcome of a second round selected based exclusively on the number of non-selected positive outcomes of a first round as in Claim 21.

Claim 23 includes, among other elements, a range of different independently determined values of a first round and a processor operable with a display device to select one of a plurality of different probabilities of obtaining a modifier of a second round, wherein the greater the indicated value of the first round, the lower the selected probability of obtaining the modifier of the second round. Claim 31 includes, among other elements, a range of different independently determined values of a first round and a processor operable with a display device to select one of a plurality of different probabilities of obtaining a modifier of a second round, wherein the greater the indicated value of a first round, the higher the selected probability of obtaining the modifier of the second round. Nowhere in *Kamille* is a value associated with a directional indicated by a starting arrow. Even if a value can be assigned to the directional of an indicated play area based on whether the directional directs a player to a win, the value of the directional is based on the outcome of the second round. The value of the directional is not determined independent of other outcomes of the game. Furthermore, even if such an interpretation is proper, there is no teaching in *Kamille* of a correlation between a value of a directional indicated by a starting arrow and a probability of choosing the correct path to a win, especially a correlation such that the greater a value of a directional indicated by a starting arrow, the lower the probability of choosing the correct path to a win. Therefore, Applicants respectfully submit that the rejection has been overcome and Claims 23 and 31 are in condition for allowance.

Claim 36 is directed to a gaming device that includes, among other elements, a processor operable to select at least one of the outcomes of the first round and display the selected outcome of the first round, wherein, when the selected outcome of the first round is displayed, the associated outcome of the second round is prevented from being obtained in the second round. *Kamille* does not disclose that when a selected outcome of a first round is displayed, an associated outcome of a second round is prevented from being obtained in the second round as in Claim 36. According to the Office Action, each

of the directionals in *Kamille* is interpreted to be an outcome of a second round that is individually associated with a different one of the directionals indicated by a starting arrow. Office Action, page 7. In *Kamille*, a directional indicated by a starting arrow may direct a player's choice to one or more other directionals which may direct the player's choice to one or more further directionals, etc. until a player is directed to a play area with no further player choice, such as a win or void. Even if this "path" of directionals can be interpreted to be associated with the directional indicated by the starting arrow, the player is not prevented from choosing a correct path among the "associated" directionals as suggested in the Office Action. Therefore, *Kamille* does not disclose that when a selected outcome of a first round is displayed, an associated outcome of a second round is prevented from being obtained in the second round.

Similar to Claim 36, Claim 39 is directed to a gaming device which includes, among other elements, a player award adapted to be provided to a player which includes at least one of the first outcomes and at least one of the second outcomes, wherein, for each provided first outcome, the associated second outcome cannot be provided to the player, and, for each provided second outcome, the associated first outcome cannot be provided to the player. *Kamille* does not disclose that for each first outcome provided to a player, an associated second outcome cannot be provided to the player, and, for each second outcome provided to a player, the associated first outcome cannot be provided to the player as in Claim 39. The Office Action interprets a plurality of first outcomes as "the initial starting point and the correct path chosen to a win or multiple wins before a void". Office Action, page 8. Even if such an interpretation is proper, *Kamille* does not disclose preventing the player from choosing another play area in the direction of a win based on the indicated directional. *Kamille*, therefore, does not disclose, for each first outcome provided to a player, an associated second outcome cannot be provided to the player, and, for each second outcome provided to a player, the associated first outcome cannot be provided to the player. Accordingly, Applicants respectfully submit that Claims 36 and 39 remain in condition for allowance.

Claims 11 to 20, 22, 27 to 30, 33 to 34 and 44 to 60 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Kamille* in view of U.S. Patent No. 6,190,255 to Thomas et al. ("Thomas").

As acknowledged in the Office Action, page 15, *Kamille* does not teach a primary wagering game operable upon a wager by a player, and *Kamille* does not teach a triggering event associated with a primary wagering game as recited in Claims 11, 22, 27 and 58. The Office Action further acknowledges that *Kamille* does not teach enabling a player to play a second round after an occurrence of a terminating event as recited in Claims 44, 47, 52 and 58 and that *Kamille* does not teach a terminating event occurs when steps recited in Claim 53 are repeated for a designated number of opportunities.

To attempt to cure these deficiencies, the Office Action combines *Thomas* with *Kamille*. Even if such a combination is proper, *Thomas* does not cure deficiencies of *Kamille* as discussed above. For example, neither *Kamille* nor *Thomas*, alone or in combination, teach, disclose or suggest selecting one of a plurality of different probabilities of providing a winning outcome of a second round, wherein the probability of providing the winning outcome of the second round is selected based exclusively on the number of non-selected outcomes of a first round as in amended Claim 11.

Also, *Kamille* and *Thomas*, alone or in combination, do not teach, disclose or suggest selecting one of a plurality of different probabilities of providing a positive outcome of a second round, wherein the probability of providing the positive outcome of the second round is selected based exclusively on the number of non-selected positive outcomes of the first round as in amended Claim 22. Therefore, for at least these reasons, Applicants respectfully submit that the rejection of Claims 11 and 22 has been overcome and that Claims 11 and 22, along with the claims which depend therefrom, are in condition for allowance.

Neither *Kamille* nor *Thomas*, alone or in combination, teach, disclose or suggest selecting one of a plurality of different probabilities of obtaining a modifier of a second round, wherein the greater the indicated value of a first round the lower the selected probability of obtaining a modifier of the second round as in amended Claim 27. Nor

does *Kamille* or *Thomas*, alone or in combination, teach, disclose or suggest selecting one of a plurality of different probabilities of obtaining a modifier of a second round, wherein the greater the indicated value of the first round, the higher the selected probability of obtaining the modifier of the second round as in amended Claim 33. As set forth above, *Kamille* does not teach, disclose or suggest a value associated with a directional indicated by a starting arrow, nor does *Kamille* teach, disclose or suggest a correlation between a value of a directional indicated by a starting arrow and a probability of choosing the correct path to a win. *Thomas* fails to cure these deficiencies of *Kamille*. Therefore, for at least these reasons, Applicants respectfully submit that the rejection of Claims 27 and 33 has been overcome and that Claims 27 and 33, along with the claims which depend therefrom, are in condition for allowance.

For at least the reasons discussed above, *Kamille* does not teach, disclose or suggest a probability of obtaining a modifier that is selected based exclusively on the number of non-provided values of a first round, as in Claims 44 and 58, or the number of un-revealed values of a first round, as in Claims 47 and 52. *Thomas* also fails to cure these deficiencies of *Kamille*. Accordingly, Applicants respectfully submit that independent Claims 44, 47, 52 and 58 and the claims which depend therefrom are in condition for allowance.

The Office Action rejected Claim 35 under 35 U.S.C. §103(a) as being unpatentable over *Kamille* in view of U.S. Patent No. 6,485,367 to Joshi ("*Joshi*"). As set forth in the Response to Office Action dated August 2, 2005, neither the combination of *Joshi* with *Kamille* or *Vancura* with *Kamille* is proper. Accordingly, Applicants traverse this rejection. Nevertheless, to further prosecution of this application, Applicants have amended Claim 35 to provide, among other elements, a processor operable with the display device to select one of a plurality of different probabilities of providing a positive outcome of a second round if a player rejects a selected outcome of a first round, wherein the probability of providing the positive outcome of the second round is selected based exclusively on the non-selected outcome of the first round. Therefore, Applicants respectfully submit that the rejection of Claim 35 has been overcome and that Claim 35 is in condition for allowance.

The Office Action also rejected Claims 37, 38, 40 and 41 under 35 U.S.C. §103(a) as being unpatentable over *Kamille* in view of U.S. Patent No. 6,033,307 to Vancura ("*Vancura*"). However, *Vancura* fails to cure the deficiencies of *Kamille*. Moreover, Claims 37 and 38 and Claims 40 and 41 depend from independent Claims 36 and 39, respectively, which are in condition for allowance as discussed above. Therefore, Applicants respectfully submit that Claims 37, 38, 40 and 41 are also in condition for allowance.

An earnest endeavor has been made to place this application in condition for allowance and such allowance is courteously solicited. If the Examiner has any questions related to this Response, Applicants respectfully submit that the Examiner contact the undersigned.

Respectfully submitted,

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